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EXAMINER

LOUIS JACQUES, JACQUES H

ART UNIT PAPER NUMBER

3661

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/961,112

Applicant(s)

KINUGAWA, HIDEKI

Examiner

Jacques H. Louis-Jacques

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-9,12-15,20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-9,12-15,20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-4, 6-9, 12-15 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imanishi et al [6,349,252] in view of Schubert et al [6,112,139]

Imanishi et al discloses an information device for construction machinery, wherein there is provided an information collection means for collecting operating information regarding operation of a construction machine (abstract, figure 1, columns 8-10, 18-19), a storage means for storing the operating information (abstract, figure 1, columns 8-10) and a transmission controller for transmitting the operating information read from the storage means to a first receiving device provided except [in] the construction machine through a wireless radio, wherein the transmission controlled transmitting the operating information to the first receiving device when receiving a transmission request from outside of the construction machine (columns 8-12, 21). Furthermore, Imanishi et al discloses an operating information accumulating means provided on the operating information control device to accumulate the operating information and store the accumulated operating information (abstract and column 8). Additionally, the first receiving device is provided in a base or remote station external to the construction machine (column 21). Imanishi et al does not particularly disclose that

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the construction machine is within a transmission permissible area. Schubert et al, on the other hand, discloses an apparatus and method for wireless remote control of an operation of a work vehicle. According to Schubert et al, the work vehicle is coupled to a remote control external to the work vehicle through a receiver and a transmitter. As describer in column 12, in particular, the receiver is configured so that so output elements of the vehicle are only controlled when the vehicle is within particular spatial regions. Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the information device for construction machinery of Imanishi et al by incorporating the features from the apparatus and method of Schubert et al because such modification would provide a more effective monitoring system. See column 12.

3. Claims 1, 3-4, 6-9, 12-15 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al [6,256,594] in view of Schubert et al [6,112,139].

Yamamoto et al discloses a machine fault monitoring apparatus and method, wherein operating information of a working or construction machine is monitored, collected and stored. According to Yamamoto et al, the collected operating information is transmitted over a wireless radio to a first receiving device at a remote station (20). Data are transmission upon request or periodically for a predetermined period of time. See abstract. According to Yamamoto et al, the base station is remote to the construction machine and the operating information of the construction machine is accumulated. See also the abstract. According further to Yamamoto et al, as set forth in figure 3, data and time of the operating information are provided. In another embodiment, as depicted in

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figure 8, for example, the operating information is transmitted to a second construction vehicle and the monitoring station (20). Yamamoto does not particularly disclose that the construction machine is within a transmission permissible area. Schubert et al, on the other hand, discloses an apparatus and method for wireless remote control of an operation of a work vehicle. According to Schubert et al, the work vehicle is coupled to a remote control external to the work vehicle through a receiver and a transmitter. As described in column 12, in particular, the receiver is configured so that so output elements of the vehicle are only controlled when the vehicle is within particular spatial regions. Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the machine fault monitoring apparatus of Yamamoto by incorporating the features from the apparatus and method of Schubert et al because such modification would provide a more effective monitoring system. See column 12.

Response to Amendment

4. The amendments along with the arguments filed therewith on July 9, 2003 have been entered and carefully considered by the examiner.

Applicant has amended the claims (1 and 9) to include the limitation that the operating information is transmitted when it is determined that the construction machine is within a transmission permissible area related to the limited range of the wireless radio. Emphasis added.

In arguing the rejections applied against the claims, Applicant contended that Imanishi et al provides "no description of a wireless radio having a limited range and a

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determination if the construction machine is within a transmission permissible area related to that limited range.” See paragraph bridging pages 4 and 5 of the response. Applicant further argued, “Yamamoto also lacks a description of determining whether a construction machine is within a transmission permissible region which is related to the limited range of the wireless radio.”

The combination of Imanishi et al/Yamamoto et al and Kageyama have been withdrawn. Therefore, the arguments are moot.

With regard to the combinations of Imanishi et al/Yamamoto et al and Schubert et al, Applicant agrees that Schubert et al discloses determining whether the construction machine is within a transmission permissible area related to the range of the limited range of the wireless radio. However, Applicant contended that the teaching in Schubert et al is that construction information is transmitted to the vehicle, not the transmitted of operating information from the vehicle to a receiving device external to the construction machine. See response at page 6.

First, whether transmitting or receiving, the operation is performed when the construction machine is within a transmission permissible area related to the limited range of the wireless radio. The mere fact that information is transmitted to the construction machine as opposed from the construction machine to the receiving device does not change the fact that exchange of the data (information) is performed when the construction is within a transmission permissible area related to the limited range of the wireless radio.

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Furthermore, as described in column 10-11, signals from the vehicle are sent to the fob. In that respect, information is transmitted from the construction machine to the fob, which may be located outside of the machine.

Thus, in light of the above, the rejections using the combinations of Imanishi et al/Yamamoto et al and Schubert et al are sustained and this office action is made final.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H. Louis-Jacques whose telephone number is (703) 305-9757. The examiner can normally be reached on M-Th, 7:30 AM - 4:00 PM (Eastern Time).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1111.

Jacques H. Louis-Jacques
Primary Examiner
Art Unit 3661

/jlj
September 10, 2003

Jacques H. Louis-Jacques
JACQUES H. LOUIS-JACQUES
PRIMARY EXAMINER